

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 23-cr-01423-KG

MICHAEL DAVID FOX,

Defendant.

DEFENDANT'S RESPONSE TO OPPOSED MOTION TO CONTINUE SENTENCING

MICHAEL DAVID FOX, through his attorney, Daniel Rubin, responds to the Government's Opposed Motion to Continue Sentencing. Mr. Fox is respectfully opposed to a continuance of his sentencing. At his sentencing, Mr. Fox is going to request time-served, to start his supervised release and be released from Diersen immediately in order to live with his mother in an approved residence in Tucson, Arizona. Mr. Fox has resided at Diersen since July 25, 2023 and has done remarkably well there, but he is ready to leave. Every day that his sentencing is postponed, to the extent that the Court releases him at his sentencing to live with his mother in Tucson, Arizona, then that is another day preventing Mr. Fox from making his way to his mother's home.

Mr. Fox recently appeared in front of The Honorable Gregory J. Fouratt on an Opposed Motion to Modify Pretrial Conditions of Release. Mr. Fox was specifically requesting to move from Diersen and to reside at his mother's home in Tucson or, in the alternative, at his camper-trailer at the KOA Campground in Las Cruces. Judge Fouratt confirmed that the motion had merit but communicated that he did not want to disturb the status quo because, at the time of the hearing, Mr. Fox had been set for sentencing and it was a mere 16 days away at that point. At no point

during that hearing did the Government communicate to Judge Fouratt that it intended to file a Motion to Continue the sentencing. Had it done so, Mr. Fox cannot be sure, but Judge Fouratt might have been more inclined to release Mr. Fox.

To the extent that the Court is inclined to grant the Government's Motion, Mr. Fox would respectfully request he be sentenced as soon as possible and, to the extent the Court has availability, during the week that the Government has confirmed it is available, the week of December 18-22.

Respectfully submitted,

FEDERAL PUBLIC DEFENDER
506 S Main Street, Suite 400
Las Cruces, NM 88001
(575) 527-7930

Electronically filed (December 6, 2023)

By: /s/ Daniel Rubin

Daniel Rubin

Assistant Federal Public Defender